

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

IN RE SCHERING-PLOUGH CORPORATION/ENHANCE SECURITIES LITIGATION	Civil Action No. 08-397 (DMC) (MF) <u>                    </u>
IN RE MERCK & CO., INC., VYTORIN/ZETIA SECURITIES LITIGATION	Civil Action No. 08-2177 (DMC) (MF)
IN RE SCHERING-PLOUGH CORP. ENHANCE ERISA LITIGATION	Civil Action No. 08-1432 (DMC) (MF)
IN RE MERCK & CO., INC. VYTORIN ERISA LITIGATION	Civil Action No. 08-1974 (DMC) (MF)
CAIN V. HASSAN, <i>et al.</i>	Civil Action No. 08-1022 (DMC) (MF)
LOCAL NO. 38 INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS PENSION FUND v. CLARK, <i>et al.</i>	Civil Action No. 09-5668 (DMC) (MF)

**~~PROPOSED~~ STIPULATED EXPERT DISCOVERY ORDER**

WHEREAS, the Parties wish to agree to certain limitations on expert discovery to avoid the unnecessary expenditure of resources,

IT IS THEREFORE HEREBY STIPULATED and agreed by and among counsel for the Parties, that any obligations of the Parties with regard to expert discovery under Rule 26(a)(2) of the Federal Rules of Civil Procedure ("FRCP") are modified as follows:

1. In lieu of the requirements of FRCP 26(a)(2)(B)(ii), written reports ("Expert Reports") prepared by expert witnesses ("Experts") shall contain the data or other information that the Experts relied upon in forming the opinions set forth in their Expert Reports. Data or

other information that may have been reviewed or considered, but not relied on, by an Expert shall not be discoverable.

2. Expert Reports containing (i) a complete statement of all opinions the Expert will express and the basis and reasons for them; (ii) the data or other information relied upon by the witness in forming them; (iii) any exhibits that will be used to summarize or support them; (iv) the witness's qualifications, including a list of all publications authored in the previous 10 years; (v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and (vi) a statement of the compensation to be paid for the study and testimony in the case, shall be delivered following the schedule set by the December 22, 2009 Pretrial Scheduling Order.

3. Notwithstanding anything to the contrary in this Stipulated Expert Discovery Order, an Expert may be presented with documents, testimony or other materials not contained in his or her Expert Report, and questioned about whether the Expert saw or considered such documents, testimony or other materials and the reasons why the Expert either did or did not rely on such documents, testimony or other materials in formulating his or her opinions.

4. Notwithstanding anything to the contrary in this Stipulated Expert Discovery Order, Parties may examine Experts at any depositions, hearings or trial regarding any factual information or analysis relied upon by the Expert in forming the opinions expressed in his or her Expert Report.

5. Parties shall not obtain discovery or conduct examinations at any depositions, hearings or trial concerning:

(A) the existence or content of any draft reports, regardless of the form of the draft, or drafts of other such materials (including but not limited to notes, mark-ups, riders,

calculations, analyses, estimates or memoranda and drafts of supporting materials used or referenced in the draft or final expert report) created for purposes of this action that are prepared by or provided to an Expert;

(B) any oral or written communications between an Expert, including personnel supporting the Expert, and (i) the Party or Parties identifying the Expert, including personnel supporting the Party or Parties, (ii) in-house or outside counsel for the Party or Parties identifying the Expert, including personnel supporting the in-house or outside counsel, or (iii) non-testifying consultants to the Party or Parties identifying the Expert, including personnel supporting the non-testifying consultants;

(C) any oral or written communications between a non-testifying consultant, including personnel supporting the non-testifying consultants and (i) the Party or Parties employing the non-testifying consultant, including personnel supporting the Party or Parties, (ii) in-house or outside counsel for the Party or Parties employing the non-testifying consultant, including personnel supporting the in-house or outside counsel, or (iii) other non-testifying consultants (including any non-testifying Experts) for the Party or Parties employing the non-testifying consultant, including personnel supporting the non-testifying consultants; or

(D) any oral or written communications between and among Experts, including personnel supporting the Experts, and non-testifying consultants employed by a Party or Parties, including personnel supporting the non-testifying consultants.

6. All Documents and other written materials relied upon by an Expert shall be identified at the time the Expert Report is delivered to the opposing Party by Bates number if such documents have been produced in this litigation, and otherwise shall be identified with reasonable particularity, and copies of such documents, if they have not been produced in this

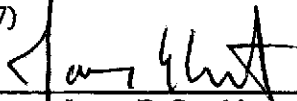
litigation, shall be produced at the time the Expert Report is delivered to the opposing Party. Nothing in this Stipulation is intended to expand or limit a Party's ability to prepare and use graphical or demonstrative exhibits based on the facts, data or opinions contained in Expert Reports at any hearings or any trial. A Party or Parties submitting an Expert Report need not produce, but must nevertheless identify if relied upon by the expert, (i) transcripts of depositions taken in this action, by name of deponent and date of deposition, (ii) exhibits from depositions, by exhibit number, and (iii) cases, statutes, treatises, and publicly available regulatory filings, in "Bluebook-style" citation form. Spreadsheets, data sets, and like supporting materials shall be produced in native electronic and fixed formats.

7. Experts retained by the Parties will be made available for deposition, without the need for a subpoena, at a time mutually agreed to by the parties.

8. Nothing herein shall limit or waive any Party's rights to object for any reason to the admission or use of any proposed exhibit or testimony, including, without limitation, any opposing Party's Expert Report, or object to the qualifications of any person to serve as an Expert.

9. This Stipulated Expert Discovery Order may be executed by facsimile or PDF signature and may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute one agreement.

CARELLA, BYRNE, BAIN, GILFILLAN,  
CECCHI, STEWART & OLSTEIN  
5 Becker Farm Road  
Roseland, New Jersey 07068  
973.994.1700  
jcecchi@carellabyrne.com  
*Liaison Counsel for Lead Plaintiffs (08-397, 08-2177)*

  
James E. Cecchi

TOMPKINS MCGUIRE,  
WACHENFELD & BARRY, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07102  
973.622.3300  
wmcguire@tompkinsmcguire.com  
*Attorneys for Merck and Schering-Plough*

  
William B. McGuire

TRUJILLO, RODRIGUEZ & RICHARDS, LLP  
285 Kings Highway East  
Haddonfield, New Jersey 08033  
856.795.9002  
lisa@rrlaw.com  
*Counsel for Plaintiffs (08-1974, 08-1432)*

\_\_\_\_\_  
Lisa J. Rodriguez

LOWENSTEIN SANDLER PC  
65 Livingston Avenue  
Roseland, New Jersey 07068  
973.597.2500  
deakeley@lowenstein.com  
*Attorneys for Merck and Schering-Plough*

\_\_\_\_\_  
Douglas S. Eakeley

SCOTT + SCOTT LLP  
108 Norwich Ave., PO Box 192  
Colchester, CT 06415  
860.537.4432  
jscolnick@scott-scott.com  
*Attorney for Plaintiffs (08-1022, 09-5668)*

\_\_\_\_\_  
Judy Scolnick

PAUL, WEISS, RIFKIND,  
WHARTON & GARRISON LLP  
1285 Avenue of the Americas  
New York, New York 10019  
212.373.3000  
dkramer@paulweiss.com  
*Attorneys for Merck and Schering-Plough*

  
Daniel J. Kramer

**CARELLA, BYRNE, BAIN, GILFILLAN,  
CECCHI, STEWART & OLSTEIN**  
5 Becker Farm Road  
Roseland, New Jersey 07068  
973.994.1700  
jcecchi@carellabyrne.com  
*Liaison Counsel for Lead Plaintiffs (08-397, 08-2177)*

---

James E. Cecchi

**TOMPKINS MCGUIRE,  
WACHENFELD & BARRY, LLP**  
Four Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07102  
973.622.3300  
wmcguire@tompkinsmcquire.com  
*Attorneys for Merck and Schering-Plough*

---

William B. McGuire

**TRUJILLO, RODRIGUEZ & RICHARDS, LLP**  
285 Kings Highway East  
Haddonfield, New Jersey 08033  
856.795.9002  
lisa@rrlaw.com  
*Counsel for Plaintiffs (08-1974, 08-1432)*



---

Lisa J. Rodriguez

**LOWENSTEIN SANDLER PC**  
65 Livingston Avenue  
Roseland, New Jersey 07068  
973.597.2500  
deakeley@lowenstein.com  
*Attorneys for Merck and Schering-Plough*

---

Douglas S. Eakeley

**SCOTT + SCOTT LLP**  
108 Norwich Ave., PO Box 192  
Colchester, CT 06415  
860.537.4432  
jscolnick@scott-scott.com  
*Attorney for Plaintiffs (08-1022, 09-5668)*

---

Judy Scolnick

**PAUL, WEISS, RIFKIND,  
WHARTON & GARRISON LLP**  
1285 Avenue of the Americas  
New York, New York 10019  
212.373.3000  
dkramer@paulweiss.com  
*Attorneys for Merck and Schering-Plough*

---

Daniel J. Kramer

**CARELLA, BYRNE, BAIN, GILFILLAN,  
CECCHI, STEWART & OLSTEIN**  
5 Becker Farm Road  
Roseland, New Jersey 07068  
973.994.1700  
jcecchi@carellabyrne.com  
*Liaison Counsel for Lead Plaintiffs (08-397, 08-  
2177)*

---

James E. Cecchi

**TOMPKINS MCGUIRE,  
WACHENFELD & BARRY, LLP**  
Four Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07102  
973.622.3300  
wmcguire@tompkinsmcguire.com  
*Attorneys for Merck and Schering-  
Plough*

---

William B. McGuire

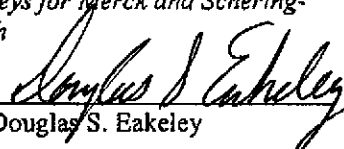
**TRUJILLO, RODRIGUEZ & RICHARDS, LLP**  
285 Kings Highway East  
Haddonfield, New Jersey 08033  
856.795.9002  
lisa@rrlaw.com  
*Counsel for Plaintiffs (08-1974, 08-1432)*

---

Lisa J. Rodriguez

**LOWENSTEIN SANDLER PC**  
65 Livingston Avenue  
Roseland, New Jersey 07068  
973.597.2500  
deakeley@lowenstein.com  
*Attorneys for Merck and Schering-  
Plough*

---

  
Douglas S. Eakeley


**SCOTT + SCOTT LLP**  
108 Norwich Ave., PO Box 192  
Colchester, CT 06415  
860.537.4432  
jscolnick@scott-scott.com  
*Attorney for Plaintiffs (08-1022, 09-5668)*

---

Judy Scolnick

**PAUL, WEISS, RIFKIND,  
WHARTON & GARRISON LLP**  
1285 Avenue of the Americas  
New York, New York 10019  
212.373.3000  
dkramer@paulweiss.com  
*Attorneys for Merck and Schering-  
Plough*

---

  
Daniel J. Kramer

**CARELLA, BYRNE, BAIN, GILFILLAN,  
CECCHI, STEWART & OLSTEIN**  
5 Becker Farm Road  
Roseland, New Jersey 07068  
973.994.1700  
jcecchi@carellabyrne.com  
*Liaison Counsel for Lead Plaintiffs (08-397, 08-2177)*

---

James E. Cecchi

**TOMPKINS MCGUIRE,  
WACHENFELD & BARRY, LLP**  
Four Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07102  
973.622.3300  
wmcguire@tompkinsmcquire.com  
*Attorneys for Merck and Schering-Plough*

---

William B. McGuire

**TRUJILLO, RODRIGUEZ & RICHARDS, LLP**  
285 Kings Highway East  
Haddonfield, New Jersey 08033  
856.795.9002  
lisa@rrlaw.com  
*Counsel for Plaintiffs (08-1974, 08-1432)*

---

Lisa J. Rodriguez

**LOWENSTEIN SANDLER PC**  
65 Livingston Avenue  
Roseland, New Jersey 07068  
973.597.2500  
deakeley@lowenstein.com  
*Attorneys for Merck and Schering-Plough*

---

Douglas S. Eakeley

**SCOTT + SCOTT LLP**  
108 Norwich Ave., PO Box 192  
Colchester, CT 06415  
860.537.4432  
jscolnick@scott-scott.com  
*Attorney for Plaintiffs (08-1022, 09-5668)*



---

Judy Scolnick

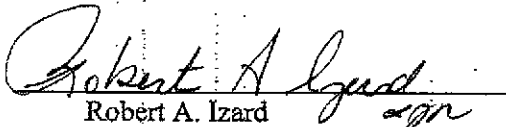
**PAUL, WEISS, RIFKIND,  
WHARTON & GARRISON LLP**  
1285 Avenue of the Americas  
New York, New York 10019  
212.373.3000  
dkramer@paulweiss.com  
*Attorneys for Merck and Schering-Plough*

---

Daniel J. Kramer



**IZARD NOBEL LLP**  
29 South Main St., Suite 215  
West Hartford, CT 06107  
860.493.6292  
rizard@izardnobel.com  
*Counsel for Plaintiffs (08-1974)*

  
Robert A. IZARD

**SILLS CUMMIS & GROSS P.C.**  
The Legal Center  
One Riverfront Plaza  
Newark, New Jersey 07102  
973.643.7000  
jgreenbaum@sillscummis.com  
*Attorneys for the Underwriter  
Defendants (08-397)*

\_\_\_\_\_  
Jeffrey J. Greenbaum

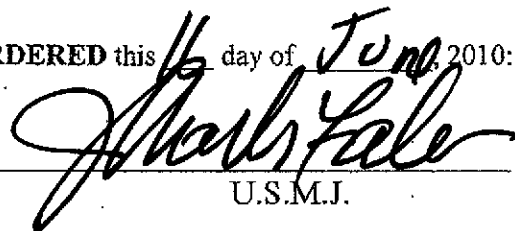
**BARROWAY TOPAZ KESSLER MELTZER  
& CHECK, LLP**  
280 King of Prussia Road  
Radnor, PA 19087  
610.667.7706  
plevan@btkmc.com  
*Counsel for Plaintiffs (08-1974)*

\_\_\_\_\_  
Peter H. LeVan, Jr.

**SHEARMAN & STERLING LLP**  
599 Lexington Avenue  
New York, NY 10022  
212.848.4000  
daniel.laguardia@shearman.com  
*Counsel For The Underwriter  
Defendants*

\_\_\_\_\_  
Daniel H.R. Laguardia

SO ORDERED this 16 day of June, 2010:

  
\_\_\_\_\_  
U.S.M.J.

**IZARD NOBEL LLP**  
29 South Main St., Suite 215  
West Hartford, CT 06107  
860.493.6292  
rizard@izardnobel.com  
*Counsel for Plaintiffs (08-1974)*

---

Robert A. Izard

**SILLS CUMMIS & GROSS P.C.**  
The Legal Center  
One Riverfront Plaza  
Newark, New Jersey 07102  
973.643.7000  
jgreenbaum@sillscummis.com  
*Attorneys for the Underwriter  
Defendants (08-307)*



---

Jeffrey J. Greenbaum

**BARROWAY TOPAZ KESSLER MELTZER  
& CHECK, LLP**  
280 King of Prussia Road  
Radnor, PA 19087  
610.667.7706  
plevan@btkmc.com  
*Counsel for Plaintiffs (08-1974)*

---

Peter H. LeVan, Jr.

**SHEARMAN & STERLING LLP**  
599 Lexington Avenue  
New York, NY 10022  
212.848.4000  
daniel.laguardia@shearman.com  
*Counsel For The Underwriter  
Defendants*

---

Daniel H.R. Laguardia

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2010:

---

U.S.M.J.

**IZARD NOBEL LLP**

29 South Main St., Suite 215  
West Hartford, CT 06107  
860.493.6292  
rizard@izardnobel.com  
*Counsel for Plaintiffs (08-1974)*

---

Robert A. Izard

**SILLS CUMMIS & GROSS P.C.**

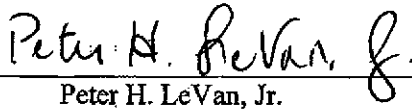
The Legal Center  
One Riverfront Plaza  
Newark, New Jersey 07102  
973.643.7000  
jgreenbaum@sillscummis.com  
*Attorneys for the Underwriter  
Defendants (08-397)*

---

Jeffrey J. Greenbaum

**BARROWAY TOPAZ KESSLER MELTZER  
& CHECK, LLP**

280 King of Prussia Road  
Radnor, PA 19087  
610.667.7706  
plevan@btkmc.com  
*Counsel for Plaintiffs (08-1974)*

  
Peter H. LeVan, Jr.

**SHEARMAN & STERLING LLP**

599 Lexington Avenue  
New York, NY 10022  
212.848.4000  
daniel.laguardia@shearman.com  
*Counsel For The Underwriter  
Defendants*

---

Daniel H.R. Laguardia

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2010:

---

U.S.M.J.

**IZARD NOBEL LLP**  
29 South Main St., Suite 215  
West Hartford, CT 06107  
860.493.6292  
rizard@izardnobel.com  
*Counsel for Plaintiffs (08-1974)*

---

Robert A. Izard

**BARROWAY TOPAZ KESSLER MELTZER  
& CHECK, LLP**  
280 King of Prussia Road  
Radnor, PA 19087  
610.667.7706  
plevan@btkmc.com  
*Counsel for Plaintiffs (08-1974)*

---

Peter H. LeVan, Jr.

**SILLS CUMMIS & GROSS P.C.**  
The Legal Center  
One Riverfront Plaza  
Newark, New Jersey 07102  
973.643.7000  
jgreenbaum@sillscummis.com  
*Attorneys for the Underwriter  
Defendants (08-397)*

---

Jeffrey J. Greenbaum

**SHEARMAN & STERLING LLP**  
599 Lexington Avenue  
New York, NY 10022  
212.848.4000  
daniel.laguardia@shearman.com  
*Counsel For The Underwriter  
Defendants*



---

Daniel H.R. Laguardia

**SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2010:

---

U.S.M.J.